

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 36484

STATE OF IDAHO,)	2010 Unpublished Opinion No. 408
)	
Plaintiff-Respondent,)	Filed: March 30, 2010
)	
v.)	Stephen W. Kenyon, Clerk
)	
DAVID ALLEN PATTERSON,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Sixth Judicial District, State of Idaho, Bear Lake County. Hon. Mitchell W. Brown, District Judge.

Appeal from judgment of conviction and sentences for possession of a controlled substance and perjury, dismissed; appeal from orders denying I.C.R. 35 motions for reduction of sentences, dismissed.

Molly J. Huskey, State Appellate Public Defender; Heather M. Carlson, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before LANSING, Chief Judge; GUTIERREZ, Judge;
and MELANSON, Judge

PER CURIAM

David Allen Patterson pled guilty to possession of a controlled substance, I.C. § 37-2732(c)(1), and perjury, I.C. § 18-5401. The parties entered into a binding I.C.R. 11 plea agreement. Pursuant to the agreement, in exchange for Patterson's guilty pleas, the state dismissed additional counts. Further, in the agreement Patterson waived his right to appeal the sentences and reconsideration under I.C.R. 35. The district court sentenced Patterson to a unified term of six years, with a minimum period of confinement of four years, for possession of a controlled substance and a concurrent unified term of six years, with a minimum period of confinement of two years, for perjury. Patterson appealed, asserting a breach of his plea

agreement by the state and, in an unpublished opinion, this Court remanded Patterson's case for resentencing before a different district judge. *See State v. Patterson*, Docket Nos. 34413, 34474, and 34475 (Ct. App. 2008).

Upon resentencing, the district court imposed a unified term of seven years, with a minimum period of confinement of three years, for possession of a controlled substance and a concurrent unified term of six years, with a minimum period of confinement of two years, for perjury. Patterson filed I.C.R 35 motions for reduction of his sentences, which the district court denied. Patterson again appeals.

Patterson concedes in his brief on appeal that he waived his rights to appeal his sentences and to request a Rule 35 reduction of his sentences. We hold that Patterson's appellate challenge to the excessiveness of his sentences and the denial of his Rule 35 motions have been waived by his plea agreement. *See State v. Rodriguez*, 142 Idaho 786, 787, 133 P.3d 1251, 1252 (Ct. App. 2006). Accordingly, we dismiss Patterson's appeals.